

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION NO.118 OF 1982

For Approval and Signature

The Hon'ble Mr. Justice S.K. KESHOTE

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1. Whether reporters of local papers may be allowed to see the judgment ?
 2. To be referred to the reporters or not ?
 3. Whether their lordships wish to see the fair copy of the judgment ?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950, or any order made thereunder ?
 5. Whether it is to be circulated to the Civil Judge?

HARGOVIND BAPULAL THAKKAR

VERSUS

JAGANNATH MATHURAPRASAD & ORS.

Appearance:

MR AS VAKIL for Petitioner

None present for Respondent

Coram: S.K. Keshote,J

Date of decision: 22/02/1999

C.A.V. JUDGMENT

#. The plaintiff-petitioner has directed this civil revision application under Section 115 of the Code of Civil Procedure, 1908, against the order of the learned 3rd Joint Civil Judge (S.D.), Vadodara, dated 30th day of September, 1981, below ex.19, in Regular Civil Suit No.1642/69, under which the prayer made for grant of permission to amend the plaint has been rejected.

#. The learned counsel for the plaintiff-petitioner made manifold contentions and also cited some of the judgments of the Hon'ble Supreme Court and this Court to pursue the court that the order of the court below deserves to be set aside but in view of the order which I propose to pass in this civil revision application, I do not consider it to be appropriate as well as in the interest of the petitioner to decide this matter finally on merits at this stage.

#. After hearing the learned counsel for the plaintiff-petitioner and going through the contents of the order impugned in this civil revision application, I am satisfied that this case does not fall under any of the clauses, namely (a), (b) or (c) of sub-section 1 of Section 115 of the Civil Procedure Code, 1908, which calls for interference of this Court in exercise of its revisional powers. Above that, if ultimately the plaintiff-petitioner fails in the suit, then while challenging the final judgment and decree of the trial Court, he can raise the grounds against this order also in memo of Appeal. It cannot be said that in case the order impugned in this civil revision application is not set aside by this court, it will occasion failure of justice or will cause any injury to the plaintiff-petitioner.

#. In the result, this civil revision application fails and the same is dismissed. However, it is made clear that in case ultimately, the petitioner fails in the suit and he files appeal against the final judgment and decree of the learned trial Court, it will be open to him to set forth the grounds of challenge of this order in the memo of Appeal and the appellate court will consider the same on merits. Rule discharged. Interim relief, earlier granted by this Court stands vacated. No order as to costs. The learned trial court is directed to decide the suit within a period of six months from the date of receipt of Writ of this order.

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[sunil]

